

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 523

Introduced by Urban Affairs Committee Friend, 10, Chairperson;
Coash, 27; Lathrop, 12; McGill, 26; Rogert, 16;
White, 8.

Read first time January 21, 2009

Committee: Urban Affairs

A BILL

1 FOR AN ACT relating to volunteer fire and rescue departments;
2 to amend section 35-901, Reissue Revised Statutes of
3 Nebraska; to change provisions regarding the volunteer
4 department trust fund; and to repeal the original
5 section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 35-901, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 35-901 (1) For purposes of this section, volunteer
4 department shall mean volunteer fire department or volunteer
5 first-aid, rescue, or emergency squad or volunteer fire company
6 serving any city, village, county, township, or rural or suburban
7 fire protection district.

8 (2) Except as provided in subsection (4) of this section,
9 each volunteer department may establish a volunteer department
10 trust fund. All general donations or contributions, bequests, or
11 annuities made to the volunteer department and all money raised by
12 or for the volunteer department shall be deposited in the trust
13 fund. The trust fund shall be under the control of the volunteer
14 department, and the volunteer department may make expenditures
15 from the trust fund as it deems necessary. The treasurer of the
16 volunteer department shall be the custodian of the trust fund.

17 (3) The trust fund shall not be considered public funds
18 or funds of any city, village, county, township, or rural or
19 suburban fire protection district for any purpose, including the
20 Nebraska Budget Act, nor shall any city, village, county, township,
21 or rural or suburban fire protection district incur any liability
22 solely by reason of any expenditure from such fund except liability
23 for property when any city, village, county, township, or rural
24 or suburban fire protection district receives title to property
25 acquired with money from such fund.

1 (4) (a) If the total amount of expenditures and receipts
2 in the trust fund exceeds one hundred thousand dollars in
3 any twelve-month period, the volunteer department shall inform
4 any city, village, county, township, or rural or suburban fire
5 protection district receiving service from the department and such
6 entity may examine or cause to be examined all books, accounts,
7 vouchers, records, and expenditures with regard to the trust fund.

8 (b) Funds, fees, or charges solicited, collected, or
9 received by a volunteer department that are (i) in consequence
10 of the performance of fire or rescue services by the volunteer
11 department at a given place and time, (ii) accomplished through the
12 use by the volunteer department of equipment owned by the taxing
13 authority supporting such department and provided to the volunteer
14 department for that purpose, and (iii) paid by or on behalf of
15 the recipient of those services shall not be deposited in a trust
16 fund authorized by this section. Such funds are public funds of
17 the taxing authority supporting the volunteer department and are
18 deemed to have been collected by the volunteer department as the
19 agent of the taxing authority and are held by the department on
20 its behalf. All such funds collected by a volunteer department
21 prior to July 18, 2008, which remain in possession or control
22 of the volunteer department shall be transferred to the control
23 of the taxing authority supporting such department or remitted to
24 the designated officer of the taxing authority for deposit to the
25 account of the taxing authority within ten days after the effective

1 date of this act. If such funds ~~are~~ were in the possession of a
2 volunteer department on July 18, 2008, the taxing authority shall
3 cause all the books, accounts, records, vouchers, expenditures, and
4 statements regarding such funds to be examined and independently
5 audited at the expense of the taxing authority by a qualified
6 professional auditor or the Auditor of Public Accounts for a period
7 including not less than the immediately preceding five years.

8 (5) Nothing in this section shall be construed or deemed
9 to permit a violation of the Nebraska Liquor Control Act.

10 (6) All expenditures of public funds as defined in the
11 Nebraska Budget Act for support of a volunteer department or its
12 purposes shall be submitted as claims, approved by the taxing
13 authority supporting such department or its purposes, and published
14 as required by law. All such claims shall be properly itemized for
15 proposed expenditure or reimbursement for costs already incurred
16 and paid except as may be otherwise permitted pursuant to section
17 35-106.

18 (7) All money raised pursuant to the Nebraska Bingo Act,
19 the Nebraska Lottery and Raffle Act, the Nebraska Pickle Card
20 Lottery Act, and the Nebraska Small Lottery and Raffle Act shall be
21 subject to such acts with respect to the deposit and expenditure of
22 such money.

23 (8) No volunteer department shall solicit, charge, or
24 collect any funds, fees, or charges as described in subdivision
25 (4) (b) of this section without the express authorization of the

1 taxing authority supporting the department by vote of a majority
2 of the members of the governing body of such taxing authority.
3 Such authorization shall not extend beyond a twelve-month period
4 but may be renewed at the discretion of the taxing authority in
5 the same manner in which it was initially granted. Upon collection
6 or receipt, such funds, fees, or charges shall be remitted to
7 the designated officer of the taxing authority for deposit to
8 the account of the taxing authority. The taxing authority may
9 appropriate and expend some or all of such funds for the support of
10 a service award benefit program adopted and conducted pursuant to
11 the Volunteer Emergency Responders Recruitment and Retention Act.

12 Sec. 2. Original section 35-901, Reissue Revised Statutes
13 of Nebraska, is repealed.